

RE: PETITION FOR ZONING VARIANCES, SW/S Reisterstown Rd., 870' NW of C/L of Pleasant Hill Rd. 4th Election District 3rd Councilmanic District

PLEASANT HILLS PARTNERSHIP, Petitioner

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY Case No. 90-60-A

OPINION

The Petitioners herein, Pleasant Hills Partnership ("Pleasant Hills"), legal owner, and Pulte Homes Corporation, Contract Purchaser ("Pulte") are seeking a series of variances with regard to Pleasant Hills, a CRG approved, recorded, 287 townhouse development, located on a 48.687 acre tract on the southwest side of Reisterstown Road, between Pleasant Hill Road to the southeast and Featherbed Lane to the northwest.

A series of five (5) Variances on virtually all of the end units in Pleasant Hills are requested in this case, and were granted by the Findings of Fact and Conclusions of Law by the Deputy Zoning Commissioner, dated September 7, 1989, a copy of which is attached hereto and incorporated by reference herein.

On or about September 29, 1989, the People's Counsel entered an appeal to this Board, and the matter was heard by agreement on November 7, 1989, with Newton A. Williams, Esquire, appearing for the Petitioners, and Phyllis Cole Friedman, Esquire, appearing on behalf of the People's Counsel's Office.

The People's Counsel outlined on the record that the appeal had been taken because as a matter of law the People's Counsel are of the opinion that the requested RTA Variance sought from Section 1B01.1B.1b4. could not be granted by reasons of the provisions of Section 1B01.1B7, which provides:

"The provisions of Section 307 of these Regulations are not applicable to the requirements of this subparagraph."

Counsel for the Petitioners then offered a proposed Stipulation Outline for Board of Appeals Hearing, which was stipulated to by the People's Counsel, and incorporated as a part of the Board's file as Petitioners' Exhibit No. 2.

Counsel for the respective parties confirmed that the requested RTA Variance was to be dropped and, in fact, marked the plat to accompany Variance Petition Pleasant Hills prepared by D. S. Thaler & Associates, Inc., dated March 2, 1989, to delete the said Variance request shown thereon as Variance No. 5, and also deleted it from the table, which plat was then received by the Board as Petitioners' Exhibit No. 1.

The Board is satisfied based upon the Stipulation Outline, Petitioners' Exhibit No. 2, the site plan, as amended, Petitioners' Exhibit No. 1, as well as the deletion of the requested RTA Variance, that as to the other requested variances, which are summarized in the Stipulation Outline, that Pleasant Hills will be a more attractive and better townhouse development if these various variances are granted.

- 2 -

The granting of the first four (4) variances sought will allow the upgrading of Pleasant Hills to a better, more attractive type of townhouse, with appropriate dining room and stairwell windows; and, further, that without the requested variances, the Petitioners will sustain practical difficulty and unreasonable hardship. Finally, the Board is satisfied that the requested variances, with the deletion of the RTA Variance as aforesaid, are in harmony with the spirit and intent of the Zoning Regulations as required by Section 307.

Furthermore, the reasons in detail for the requested variances are stated at length in the Findings of Fact and Conclusions of Law, dated September 7, 1989, by the Deputy Zoning Commissioner Ann M. Nastarowicz, which Findings of Fact and Conclusions of Law are adopted by this Board, with the exception of those that relate to the aforesaid RTA Variance.

ORDER

For the foregoing reasons stated herein above, it is, this 15th day of November, 1989, by the County Board of Appeals of Baltimore County,

ORDERED, that the following variances be, and they are hereby GRANTED, namely:

1. A variance from Section 1B01.2C1 to permit a 25 foot minimum distance between buildings in lieu of the required 30 foot height to height limitation.

- 3 -

2. A variance from Section 1B01.2C.2.b to permit a minimum distance of 25 feet between the centers of facing windows of end units in lieu of the required 40 feet.

3. A variance from Section V.B.6.b. (Comprehensive Manual of Development Policy) to permit a 10 foot minimum distance between end unit windows and side property lines in lieu of the required 15 feet.

4. A variance from Section V.B.6.a. (Comprehensive Manual of Development Policy) to permit a minimum distance of 15 feet window-to-street right of way in lieu of the required 25 feet.

5. All of the aforesaid variances shall be on the shaded units being variances in accordance with the variance request chart set out at the bottom of Petitioners' Exhibit No. 1, the Plat to Accompany Variance Petition Pleasant Hills by D. S. Thaler & Associates, Inc., dated March 2, 1989, with the aforesaid four (4) RTA Variances on Lots 224, 225, 230 and 231 deleted therefrom, and deleted from this request.

IT IS FURTHER ORDERED, that:

A. Petitioners may apply for building permits and be granted same upon receipt of this Opinion and Order; however, Petitioners are hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appeal period from this Opinion and Order has expired.

B. This Opinion and Order by virtue of its existence among the zoning records of Baltimore County shall constitute

- 4 -

an amendment of the Final Development Plan for Pleasant Hills, with respect to the variances granted herein.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT, Chairman

Lynn Moreland
LYNN MORELAND, Member

Michael B. Bauer
MICHAEL B. BAUER, Member

1290B

- 5 -

IN RE: PETITION FOR ZONING VARIANCE SW/S Reisterstown Road, 870' NW of the C/L of Pleasant Hill Road 4th Election District 3rd Councilmanic District

PLEASANT HILLS PARTNERSHIP Petitioner

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 90-60-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit a minimum distance between buildings of 25 feet in lieu of the required 30 feet, height to height requirement; a minimum distance of 25 feet between the centers of facing windows of end units in lieu of the required 40 feet; a minimum distance of 15 feet window to street right-of-way in lieu of the required 25 feet; a minimum distance between end unit windows and side property lines of 10 feet in lieu of the required 15 feet; and to permit a minimum distance of 40 feet between buildings in an R.T.A. in lieu of the required 45 feet, 1.5 times the height to height limitation, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Larry Thanner, General Partner, appeared, testified and was represented by Newton A. Williams, Esquire. Also appearing on behalf of the Petition were Michael A. Schrader, Executive Vice President, Pulte Home Corporation, Contract Purchaser; and David S. Thaler, Registered Professional Engineer. There were no Protestants.

Testimony indicated that the subject property consists of 47.687 acres more or less split zoned D.R. 16, D.R. 10.5 and D.R. 3.5 and is the site of a proposed 287 unit townhouse development known as Pleasant Hills. Said property is located on the southwest side of Reisterstown Road between Pleasant Hill Road and Featherbed Lane. Testimony indicated the requested

variances are for every end unit as shown on a chart entitled "Shaded Units Being Variances" on Petitioner's Exhibit 1.

The testimony revealed that the subject property has had a series of owners over its development history. Mr. Thaler and his firm originally designed the townhouse development for Castro-Holdsworth Associates, Inc., a Rockville, Maryland developer. CRG approval was given for the project on November 26, 1986. The Pleasant Hills Partnership acquired the property in August, 1988. In November 1988, the Pleasant Hills Partnership brought in Pulte Homes Corporation to be the actual builder and seller of the townhomes. Testimony indicated that after a market study by the Pulte Home Corporation of the Owings Mills housing mix, market and demographics, it was determined that the townhomes originally proposed for the subject property, with a low-pitched, 4 to 12 roof, and blank end walls on all units, would be more marketable and aesthetically pleasing with a roof pitch between 6 to 12, and by providing dining room windows and stairwell windows in the end units. Petitioners contend the proposed changes provide architectural amenity to not only the end units but to the entire neighborhood. Therefore, Petitioners have requested the proposed variances for all end units in the development rather than redesign the project, which Petitioners argue, would not only take years, but is impractical since the property is already the subject of a record plat, a final development plan, and signed and partially completed Public Works Agreements for public utilities.

Messrs. Thanner and Thaler testified the requested variances are necessary due to the architectural changes to the roof pitch and the addition of windows. Mr. Thanner contends the changes will result in a more attractive peaked roof, and will allow the end units to have stairwell and

- 2 -

dining room windows, both of which are favorable design amenities according to the testimony presented and the comments submitted by the Deputy Director of Planning dated August 11, 1989.

Further, the photographs introduced as Petitioner's Exhibits 2, 3 and 4, demonstrate the end units as modified are more attractive with the dining room and stairwell windows, and a side entry door, than they would be with merely blank end walls as originally approved. Furthermore, it was argued that the proposed end units meet the spirit and intent of the regulations since the side windows in no way deprive any end unit owner of privacy as the windows are not located either in bedrooms or bathrooms on either the first or second floors.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R.

- 3 -

ORDER RECEIVED FOR FILING
Date 11/15/89
By *John J. Sullivan*

ORDER RECEIVED FOR FILING
Date 11/15/89
By *John J. Sullivan*

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
(301) 823-7800
TELEFAX: (301) 296-2765
J. EARLE PLUMHOFF
(301) 823-7800
JAMES D. NOLAN
(301) 823-7800
OF COUNSEL
RALPH E. DEITZ
9026 LIBERTY ROAD
RANDALLSTOWN, MARYLAND 21133
(301) 922-2121
NEWTON A. WILLIAMS
WILLIAM H. HESSON, JR.
THOMAS J. HENNER
STEPHEN J. NOLAN
ROBERT L. NOLAN
ROBERT L. NOLAN, JR.
ROBERT L. NOLAN, JR.
STEPHEN M. SCHENNING
DOUGLAS L. BURGESS
ROBERT E. CAHILL, JR.
LOUIS G. COHEN
THOMAS A. ALDERMAN
KERR L. FOSTER
*ALSO ADMITTED IN D.C.

September 1, 1989

RECEIVED
SEP 1 1989

ZONING OFFICE

RE: Petition for Zoning Variance
for Pleasant Hill Partnership
Case No.: 90-60-A

Dear Commissioner Nastarowicz:

As promised at the time of the recent Hearing on August 23, 1989 please find enclosed a draft of the Findings of Fact and Conclusions of Law in the above-entitled matter.

As you have reminded me several times everyone is anxious to get this Opinion, particularly because of settlements scheduled for mid to late October.

Of course I would be glad to come to your office and talk, or consult with you by telephone at your convenience in regard to this matter.

Thanking you and your staff, I am -

Sincerely,

Newton A. Williams
Newton A. Williams

NAW/psk

Enclosure

cc: Mr. Larry Thanner, Jr.
Mr. Dave Thaler
Pulte Homes Corporation

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME ADDRESS
Newton A. Williams 700 Court Towers, 210 W. Penn.
DAVID THALER 11400 RD BALT. 21208
Lawrence J. Thanner, Jr. 2405 York Rd Timonium, MD 21143
Michael A. Schaeffer, Jr. 11120 N. H. Ave Silver Spring Md 20904

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 4th Date of Posting: July 31, 89
Posted for: Variance
Petitioner: Pleasant Hill Partnership
Location of property: SW side of Reisterstown Road, E. 1/4 NW of the City of Pleasant Hill Road
Location of Sign: SW side of Reisterstown Road on front of subject property
Remarks:
Posted by: M. J. Thaler
Number of Signs: 1 Date of return: August 4, 89

CERTIFICATE OF PUBLICATION

TOWSON, MD. August 3, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in the OWINGS MILLS TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on August 3, 1989.

THE JEFFERSONIAN
OWINGS MILLS TIMES,
S. Zebe Olson
Publisher

VARIANCES REQUESTS

Number	Sections	Requests
1	1B01.2.C.1	To permit a 25' minimum distance between buildings in lieu of the required 30' height to height limitation.
2	1B01.2.C.2b	To permit a minimum distance of 25' between the centers of facing windows of end units in lieu of the required 40'.
3	V.B.6.b(CMDP)	To permit a 10' minimum distance between end unit windows and side property lines in lieu of the required 15'.
4	V.B.6.a.(CMDP)	To permit a minimum distance of 15' window to street right-of-way in lieu of the required 25'.
5	1B01.2.C.4	To permit a minimum distance of 40' between buildings in a R.T.A. in lieu of the required 45' (1.5 times the height to height limitation).

No. 90-60-A
August 11, 1989

Based upon the analysis conducted, staff recommends approval of the petitioner's request subject to the following:

The petitioner shall provide architectural treatments for end walls of townhouses in conformance with, Thomas Run-11, revision dated April 4, 1989. Any substantial deviations shall be reviewed and approved by the Director of Planning and Zoning, and the Zoning Commissioner

PK/JL/se

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

Pleasant Hill Partnership
2405 York Road, Suite 300
Timonium, Maryland 21093

Re: Petition for Zoning Variance
CASE NUMBER: 90-60-A
SW/S Reisterstown Road, 870' NW of c/l of Pleasant Hill Road
4th Election District - 3rd Councilmanic
Petitioner(s): Pleasant Hill Partnership
HEARING SCHEDULED WEDNESDAY, AUGUST 23, 1989 at 2:00 p.m.

Gentlemen:

Please be advised that \$122.32 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN AND POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign and post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 074555
DATE 23 AUG 89 ACCOUNT R-01-615-000
AMOUNT \$ 122.32
RECEIVED LAWRENCE THANNER
FOR POSTING & ADVERTISING (CASE NO. 90-60-A)
B 100*****1222218 2338

Lot Number	Variances Requested
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12	2, 3
13	2, 3
17	3
18	3
26	3
27	3
34	3
35	3, 4
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45	1, 2, 3
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53	3
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69	2, 3
74	2, 3
75	3
82	3
83	1, 2, 3
90	1, 2, 3
91	1, 2, 3

RE: PETITION FOR ZONING VARIANCE : BEFORE THE ZONING COMMISSIONER
SW/S Reisterstown Rd., 870' : OF BALTIMORE COUNTY
NW of c/l of Pleasant Hill Rd.
4th Election District : Case No. 90-60-A
3rd Councilmanic District
PLEASANT HILL PARTNERSHIP,
Petitioner : : : : :
NOTICE OF APPEAL

Please note an appeal from the decision in the above-captioned matter of the Deputy Zoning Commissioner, under date of September 7, 1989, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 887-2188

I HEREBY CERTIFY that on this 29th day of September, 1989, a copy of the foregoing Notice of Appeal was mailed to Newton A. Williams, Esquire, Nolan, Plumhoff & Williams, Chartered, Suite 700, Court Towers, 210 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioner.

Phyllis Cole Friedman
Phyllis Cole Friedman
Phyllis Cole Friedman

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185 1, 2, 3

#510

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261	2, 3

4

#510

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289	1, 2, 3
294	3

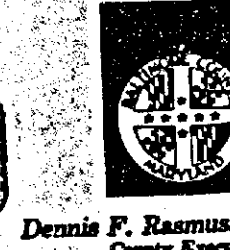
0901B NAW/psk

5

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

July 24, 1989

RECEIVED
AUG 3 1989



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 407, 417, 502, 503, 504, 505, 506, 507, 508, 509, 510 and 512.

Very truly yours,
Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

June 13, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Att: James Dyer

Re: Baltimore County
Pleasant Hills
Subdivision
Zoning meeting 6/6/89
S/S Reisterstown Road
MD 140
870' west of
Pleasant Hill Road
[Item #510]

Dear Mr. Haines:

After reviewing the submittal for a variance to permit a 25' minimum distance between buildings in lieu of the required 30' and other variances, we find the plan acceptable with all highway improvements having been previously approved.

If you have any questions, contact Larry Brocato (333-1350).

Very truly yours,

Gregory J. Mills, Jr.
Gregory J. Mills, Jr. Chief
Engineering Access Permits
Division

LB/es

cc: D.S. Thaler and Associates Inc.
Mr. J. Ogle

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 555-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

JUNE 12, 1989



J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: PLEASANT HILLS PARTNERSHIP
Location: SW/S OF REISTERSTOWN ROAD, 870' NW OF THE
CENTERLINE OF PLEASANT HILL ROAD
Item No.: 510 Zoning Agenda: JUNE 6, 1989

Gentlemen:
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Robert W. Bowling* Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KER

JUN 14 1989

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 20, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for June 6, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 502, 503, 505, 506, 507, 509, and 512.

For items 417 and 510 the previous County Review Group comments are still valid.

Comments are attached for item 407.

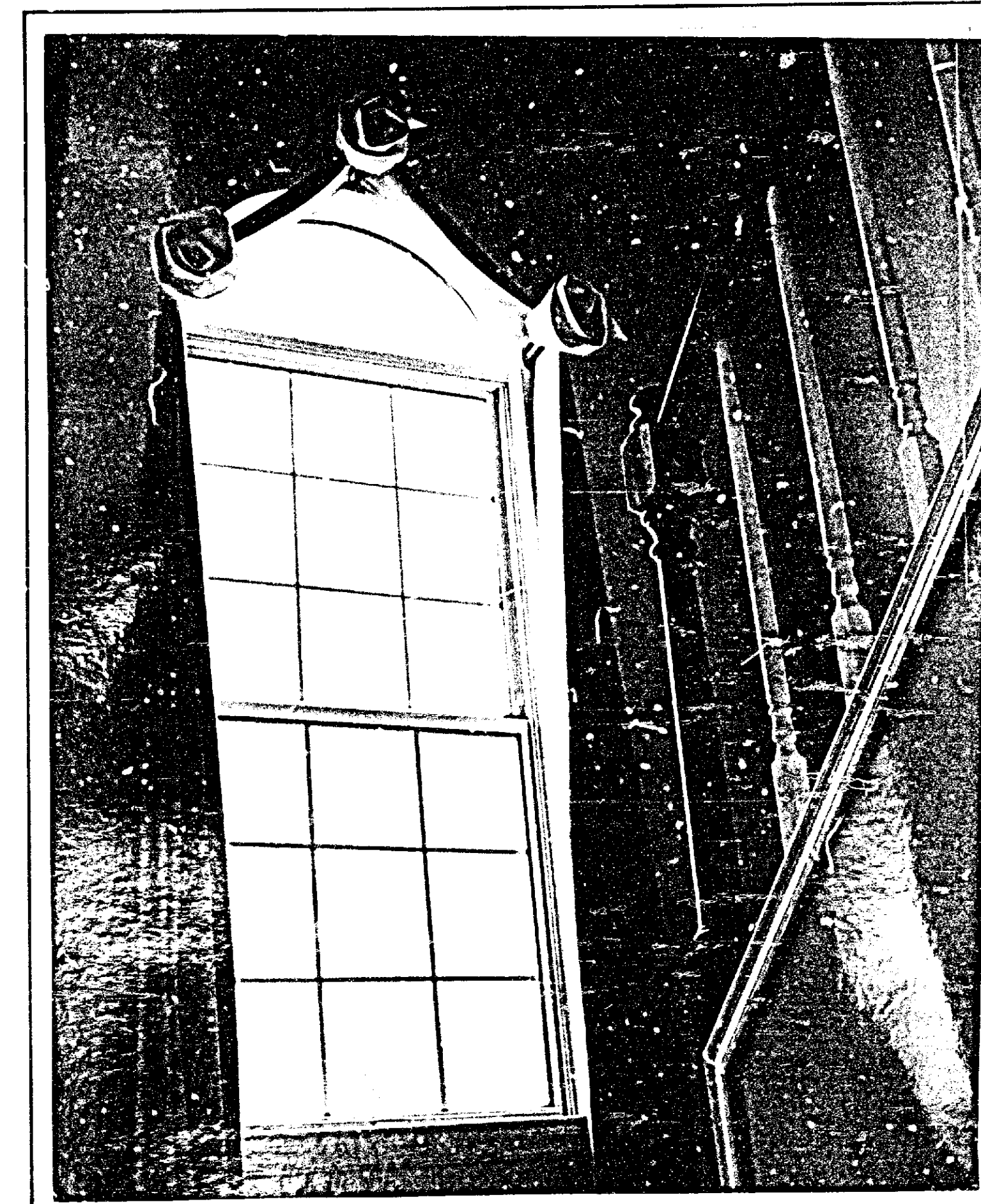
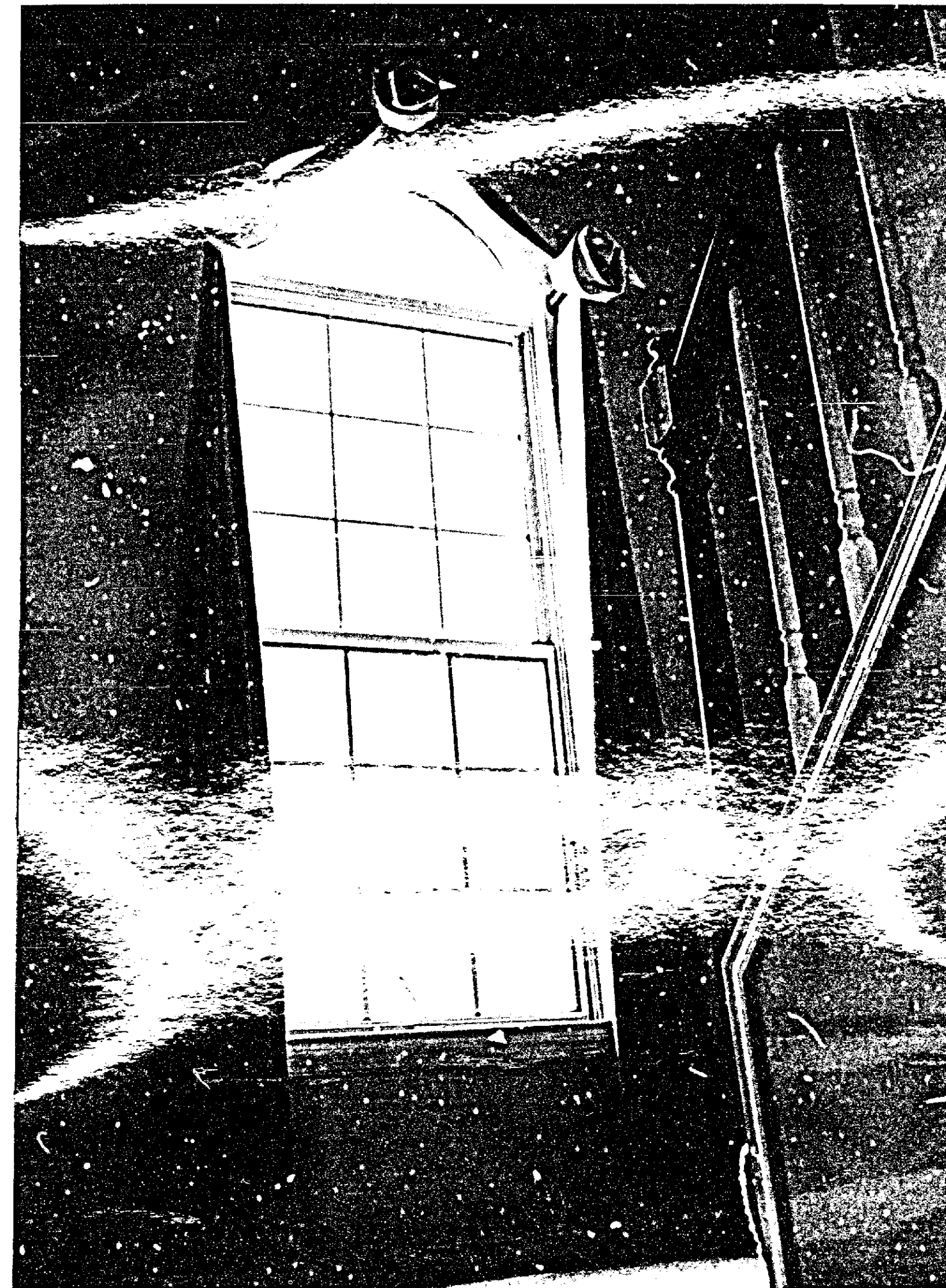
For item 504, Oak Avenue shall ultimately be improved as a 30-foot street cross-section on a 50-foot right-of-way.

For item 508, parking should not be set up to back out onto future Craddock Lane.

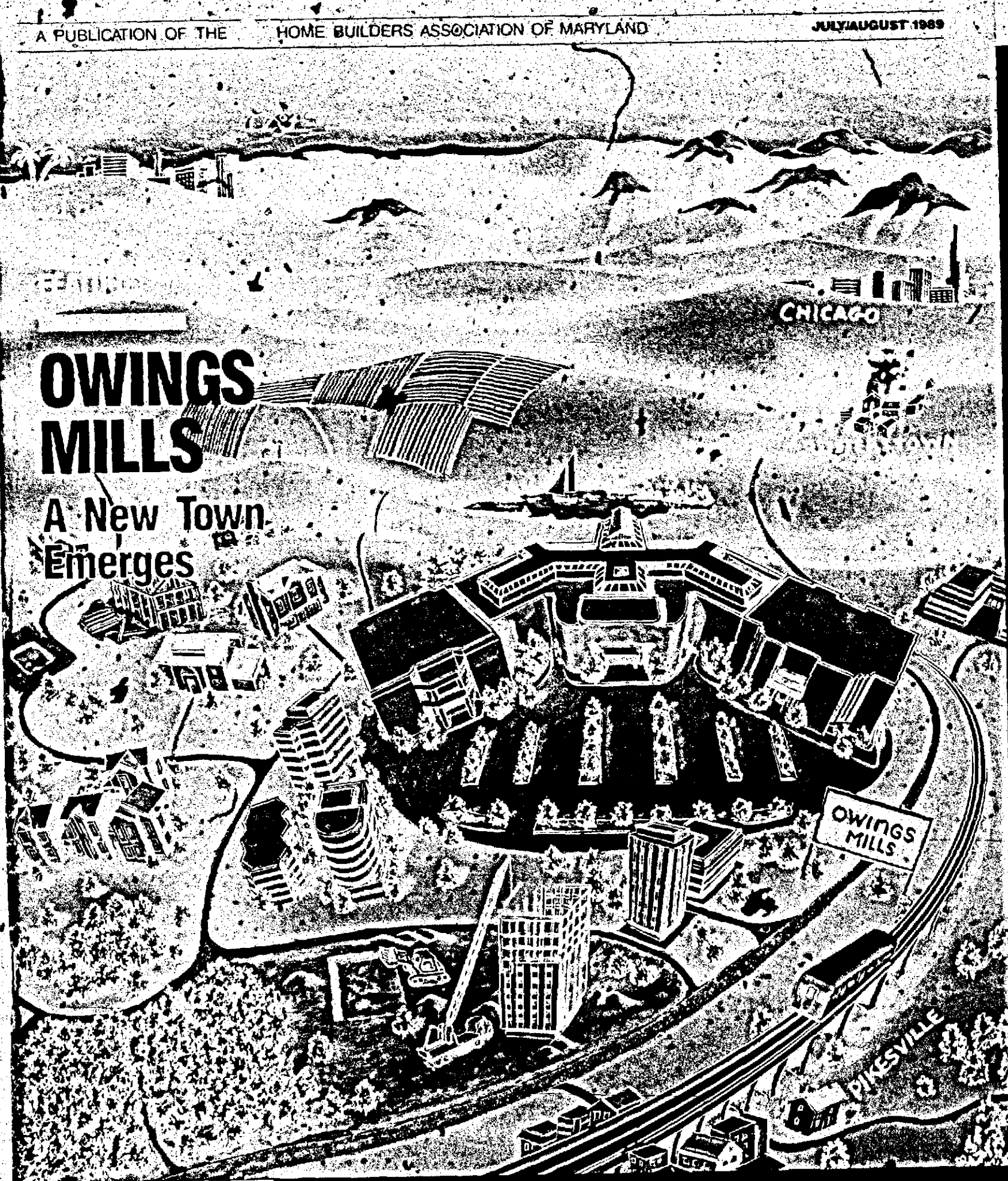
Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

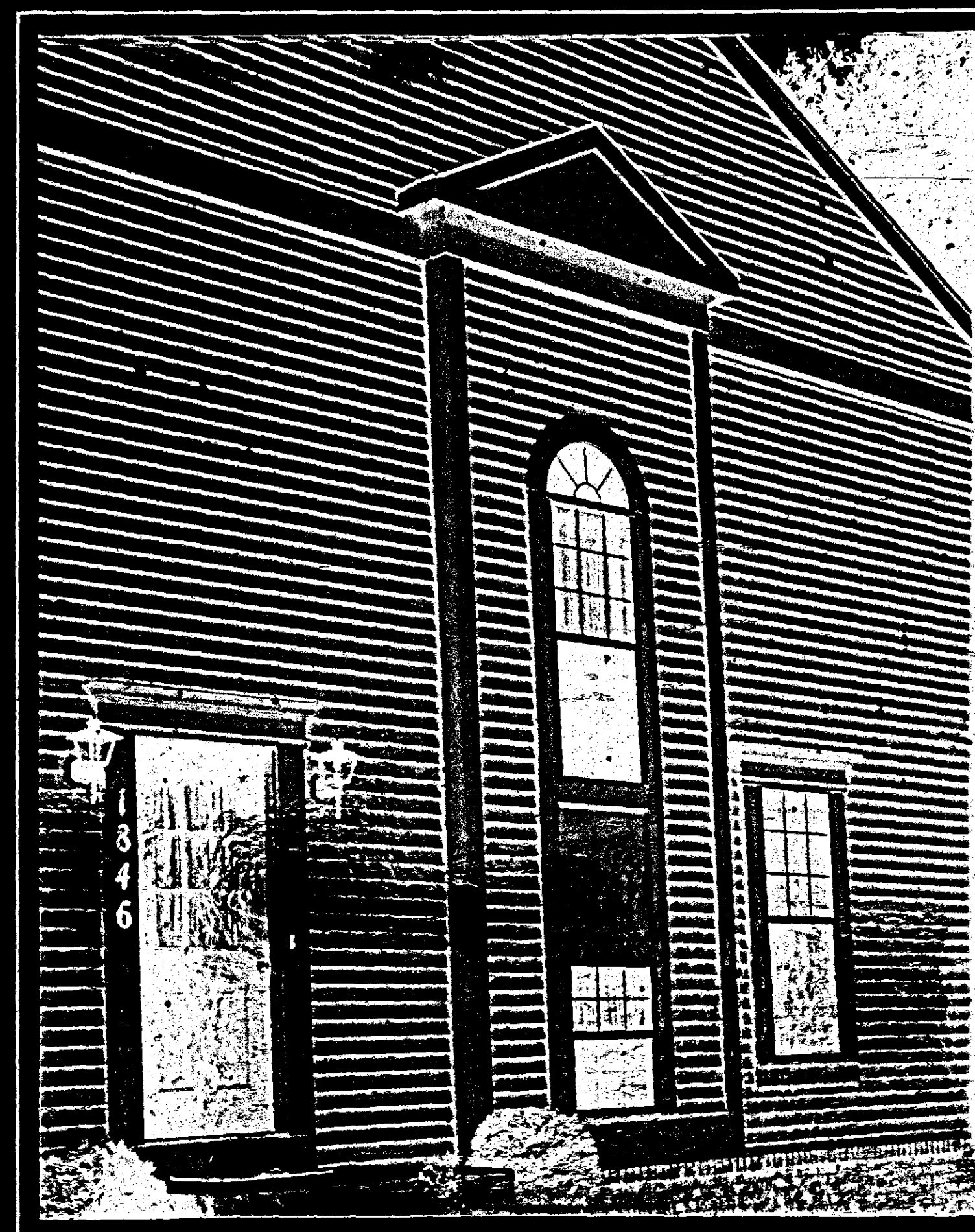
Encl.



Petitioner's
Eth. b. 14



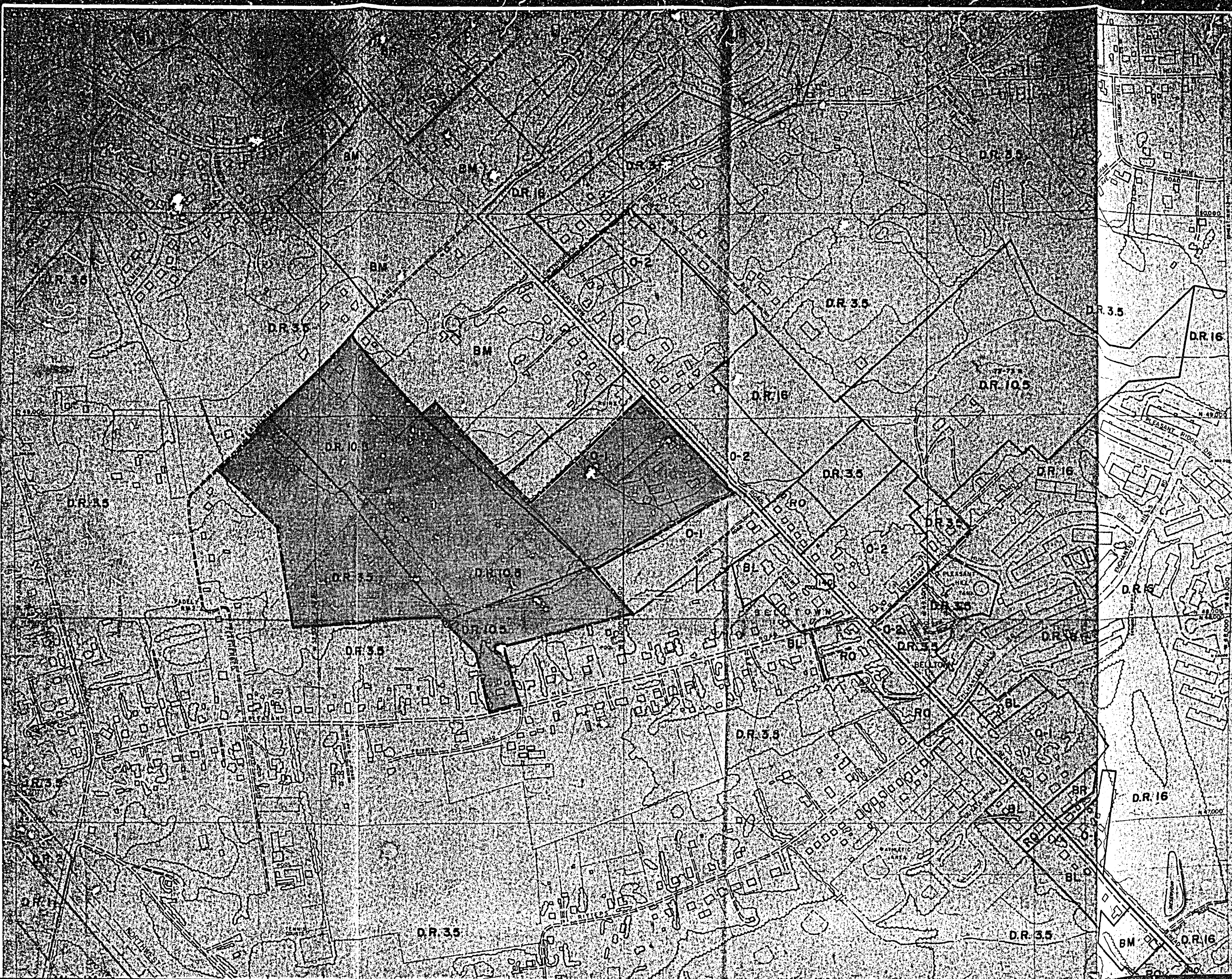
Peterson's Exhibit 3



Peterson's Exhibit 2

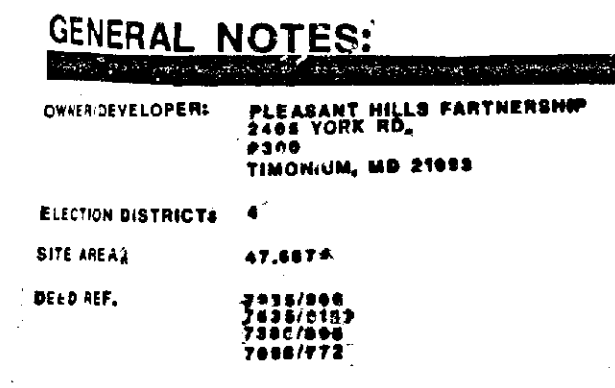
NW 12+13 I

J.C.
7th



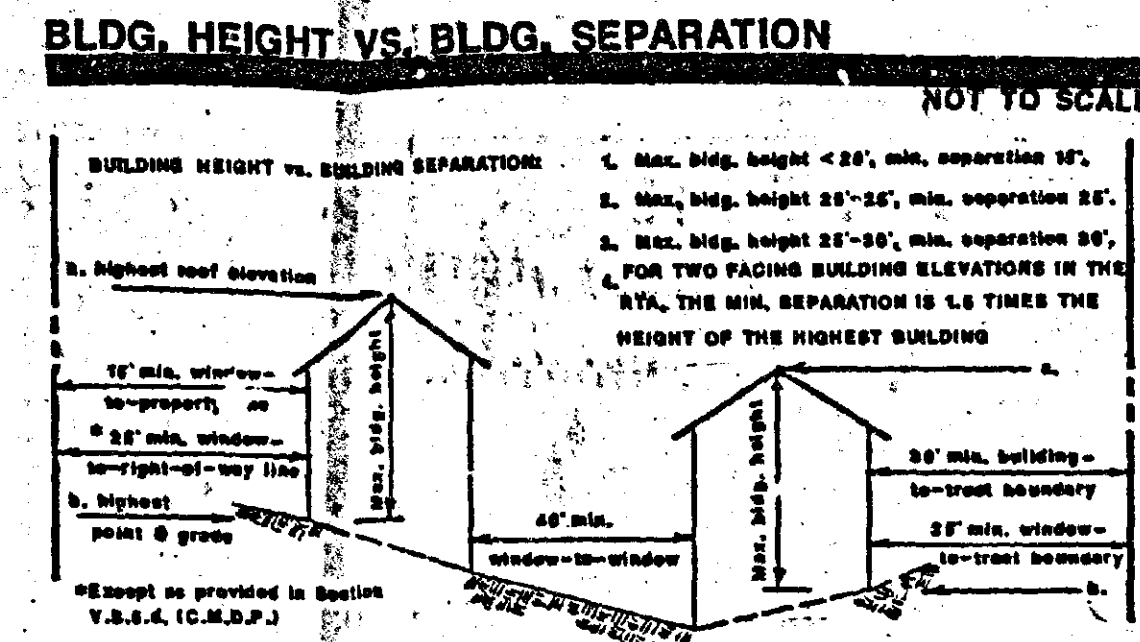
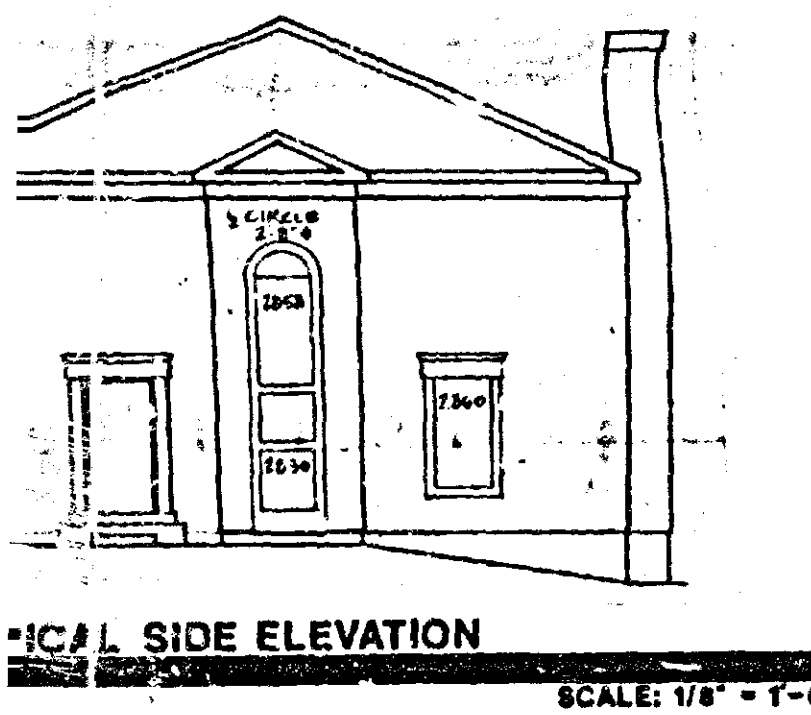
PRINTED
MAY 1 1989
D.A. THALER & ASSOCIATES, INC.
200 SCALE ZONING
MAP TO ACCOMPANY
VARIANCE PETITION
PLEASANT HILLS
D.A. THALER & ASSOCIATES, INC.
11 WARREN ROAD
BALTIMORE, MD. 21204
(301) 484-4100
3-1-89

510



D.S. THALE
11 WARREN
BALTIMORE
(301) 484-4

Petitioner's

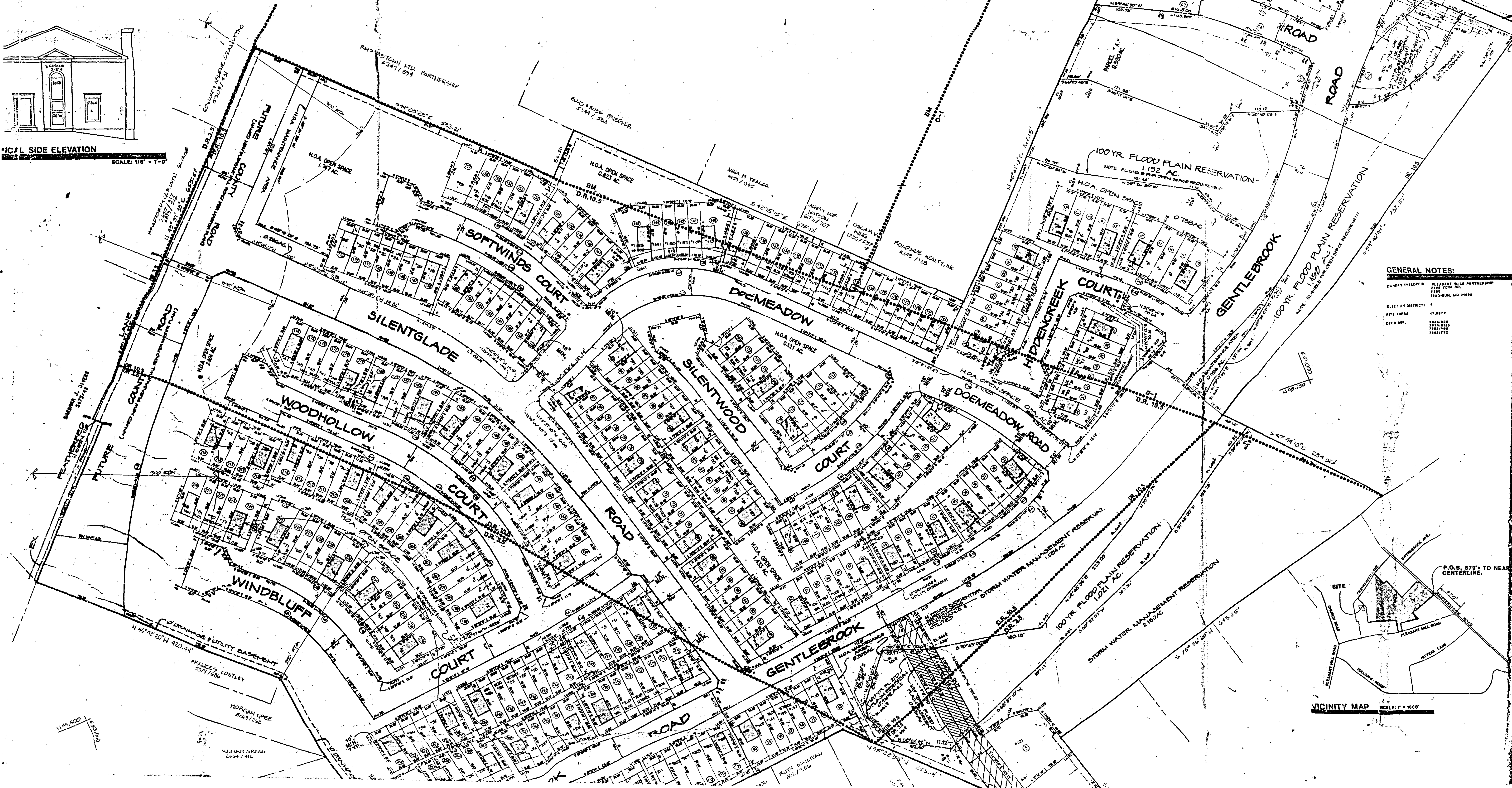


VARIANCE REQUESTS:

TO INCLUDE ALL SHADED UNITS

1. 801.2.C.1 TO PERMIT A 25 FOOT MINIMUM DISTANCE BETWEEN BUILDINGS IN LIEU OF THE REQUIRED 30 FOOT HEIGHT TO HEIGHT LIMITATION.
2. 1801.2.C.2.5 TO PERMIT A MINIMUM DISTANCE OF 25 FEET BETWEEN THE CENTERS OF FACING WINDOWS OF END UNITS IN LIEU OF THE REQUIRED 40 FEET.
3. V.B.6.5.(C.M.D.P.) TO PERMIT A 15 FOOT MINIMUM DISTANCE BETWEEN END UNIT WINDOWS AND SIDE PROPERTY LINES IN LIEU OF THE REQUIRED 15 FEET.
4. V.B.6.5.(C.M.D.P.) TO PERMIT A MINIMUM DISTANCE OF 15 FEET WINDOW-TO-STREET RIGHT OF WAY IN LIEU OF THE REQUIRED 25 FEET.
5. 1801.2.C.2.1 TO PERMIT A MINIMUM DISTANCE OF 40 FEET BETWEEN BUILDINGS IN LIEU OF THE REQUIRED 45 FOOT 1.5 TIMES THE HEIGHT TO HEIGHT LIMITATION.

Handwritten note:
N/A 11/1/87
Revised before Board of Appeals



GENERAL NOTES:

OWNER/DEVELOPER: PLEASANT HILLS PARTNERSHIP
2300
TINDHOFF, MD 21088
ELECTION DISTRICT: 4
SITE AREA: 47.8874
DEED REF: 7831048
7831049
7831050
7831051

VICINITY MAP
SCALE: 1" = 1000'